In the High Court of Judicature at Madras

Dated: 13.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

W.P.No.15572 of 1999 &
Writ Appeal No.3809 of 2002

Dr.V.Murugesan .. Petitioner/Appellant

Vs..

1.The Commissioner,
Pollachi Municipality,
Pollachi.

2.The Executive Officer/Revenue Officer
Pollachi Municipality,
Pollachi. .. Respondents/Respondents

W.P.No.15572 of 1999 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the order dated 13.04.1999 made in S.R.P.No.37-98-99 II-a3 on the file of the first respondent herein confirming the assessment made vide special notice No.20320 dated 31.3.1999 and special notice No.11434 dated 09.03.1999 on the file of the second respondent herein and quash the same.

Writ Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed in W.P.No.39396 of 2002 dated 25.10.2002 praying for a Writ of Certiorari to call for the records relating to the Special Notice dated 20.03.2000 and consequential order of the Ist Respondent in his proceedings in Na.Ka.No.15679/99/A1 dated 11.10.2002.

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For Petitioner/ Appellant : Mr.Srinath Sridevan

For 1st respondent : Mr.G.Sankaran Government Advocate

For 2nd respondent : No appearance

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

Aggrieved by the House Tax Demand dated 13.04.1999 and special notice dated 31.03.1999 of the first respondent-Municipality and special notice dated 09.03.1999 of the second respondent, the petitioner has filed W.P.No.15572 of 1992 to quash the same on various grounds.

2. W.A.No.3809 of 2002 is directed against the order of the learned single Judge dated 25.10.2002 made in W.P.No.39396 of 2002, in and by which, the learned Judge has dismissed the above writ petition.

3. Heard the learned counsel for the petitioner/appellant as well as the respondents-Municipality.

4. Though the impugned proceedings specifically state that if the petitioner/appellant is aggrieved of the demands made, he is free to make an appeal to the Taxation Appeal Committee within a period of 15 days, the petitioner has filed the above writ petition before this Court.

5. According to the learned counsel for the petitioner/appellant, at the relevant time, the Taxation Appeal Committee was not functioning, which made him to file the writ petitions. In the counter affidavit filed by the Municipality dated 22.09.2003, the Commissioner, Pollachi Municipality, has stated that the Taxation Appeal Committee is functional and that the petitioner can work out his remedy, if he is so advised, by filing appeal. Apart from this, the learned counsel for the respondent-Municipality, at the time of hearing of the writ petition, has also expressed that the Taxation Appeal Committee is available and it is for the petitioner to file an appeal.

6. Taking note of the grievance expressed and the points raised, we are of the view that it is for the petitioner to work out his remedy by filing an appeal before the Taxation Appeal Committee. It is also relevant to refer that, pursuant to the orders of this Court, the petitioner has paid a sum of Rs.2,00,000/- to the respondent to the credit of House Tax Demand. In view of the same, the petitioner is permitted to file an appeal before the Taxation Appellate Committee within a period of 15 days from the date of receipt of a copy of this order. If such appeal is filed, it is for the Taxation Appellate Committee to consider and dispose of the same on merits and in accordance with law within a period of 60 days thereafter.

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7. In view of the compliance of the conditional order and payment of Rs.2,00,000/- towards tax arrears, the impugned order shall not be given effect to till final decision being taken by the Taxation Appeal Committee.

8. In view of our above mentioned conclusion, the petitioner is permitted to file similar appeal before the Taxation Appeal Committee in respect of special notice dated 20.03.2000 and subsequent order of the Commissioner, Pollachi Municipality, in his proceedings No.15679/99/A1 dated 11.10.2002 within a period of two weeks from the date of receipt of a copy of this order. If such appeal is filed as directed above, the Taxation Appeal Committee is directed to consider and pass orders in accordance with law within a period of 60 days thereafter.

9. As stated earlier, in view of the fact that the petitioner/appellant had deposited a sum of Rs.2,00,000/-, both the impugned proceedings shall not be implemented till final decision being taken by the Taxation Appeal Committee.

10. The writ petition and writ appeal are disposed of accordingly. No costs.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commissioner,
Pollachi Municipality,
Pollachi.

2.The Executive Officer/Revenue Officer
Pollachi Municipality,
Pollachi.

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+ 2 ccs to Mr. Srinath Sridevan, Advocate SR Nos.9206, 9207

PPV(CO)
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